

103D CONGRESS
2D SESSION

S. 473

AN ACT

To promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes.

March 8 (legislative day, February 22), 1994

Ordered to be printed as passed

March 8 (legislative day, February 22), 1994

Ordered to be printed as passed

103^D CONGRESS
1ST SESSION

S. 473

AN ACT

To promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Energy
5 National Competitiveness Technology Partnership Act of
6 1993”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the term—

3 (1) “Department” means the United States De-
4 partment of Energy; and

5 (2) “Secretary” means the Secretary of the
6 United States Department of Energy.

7 **SEC. 3. COMPETITIVENESS AMENDMENT TO THE DEPART-**
8 **MENT OF ENERGY ORGANIZATION ACT.**

9 (a) The Department of Energy Organization Act is
10 amended by adding the following new title (42 U.S.C.
11 7101 et seq.):

12 **“TITLE XI—TECHNOLOGY**
13 **PARTNERSHIPS**

14 **“SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.**

15 “(a) FINDINGS.—For purposes of this title, Congress
16 finds that—

17 “(1) the Department has scientific and tech-
18 nical resources within the departmental laboratories
19 in many areas of importance to the economic, sci-
20 entific and technological competitiveness of United
21 States industry;

22 “(2) the extensive scientific and technical in-
23 vestment in people, facilities and equipment in the
24 departmental laboratories can contribute to the
25 achievement of national technology goals in areas

1 such as the environment, health, space, and trans-
2 portation;

3 “(3) the Department has pursued aggressively
4 the transfer of technology from departmental labora-
5 tories to the private sector; however, the capabilities
6 of the laboratories could be made more fully acces-
7 sible to United States industry and to other Federal
8 agencies;

9 “(4) technology development has been increas-
10 ingly driven by the commercial marketplace, and the
11 private sector has research and development capa-
12 bilities in a broad range of generic technologies;

13 “(5) the Department and the departmental lab-
14 oratories would benefit, in carrying out their mis-
15 sions, from collaboration and partnership with
16 United States industry and other Federal agencies;
17 and

18 “(6) partnerships between the departmental
19 laboratories and United States industry can provide
20 significant benefits to the Nation as a whole, includ-
21 ing creation of jobs for United States workers and
22 improvement of the competitive position of the Unit-
23 ed States in key sectors of the economy such as
24 aerospace, automotive, chemical and electronics.

25 “(b) PURPOSES.—The purposes of this title are—

1 “(1) to promote partnerships among the De-
2 partment, the departmental laboratories and the pri-
3 vate sector;

4 “(2) to establish a goal for the amount of de-
5 partmental laboratory resources to be committed to
6 partnerships;

7 “(3) to ensure that the Department and the de-
8 partmental laboratories play an appropriate role,
9 consistent with the core competencies of the labora-
10 tories, in implementing the President’s critical tech-
11 nology strategies;

12 “(4) to provide additional authority to the Sec-
13 retary to enter into partnerships with the private
14 sector to carry out research, development, dem-
15 onstration and commercial application activities;

16 “(5) to streamline the approval process for co-
17 operative research and development agreements pro-
18 posed by the departmental laboratories; and

19 “(6) to facilitate greater cooperation between
20 the Department and other Federal agencies as part
21 of an integrated national effort to improve United
22 States competitiveness.

23 “(c) DEFINITIONS.—For purposes of this title, the
24 term—

1 “(1) ‘cooperative research and development
2 agreement’ has the meaning given that term in sec-
3 tion 12 of the Stevenson-Wydler Technology Innova-
4 tion Act of 1980 (15 U.S.C. 3710a(d)(1));

5 “(2) ‘core competency’ means an area in which
6 the Secretary determines a departmental laboratory
7 has developed expertise and demonstrated capabili-
8 ties;

9 “(3) ‘critical technology’ means a technology
10 identified in the Report of the National Critical
11 Technologies Panel;

12 “(4) ‘departmental laboratory’ means a facility
13 operated by or on behalf of the Department that
14 would be considered a laboratory as that term is de-
15 fined in section 12 of the Stevenson-Wydler Tech-
16 nology Innovation Act of 1980 (15 U.S.C.
17 3710a(d)(2)) or any other laboratory or facility des-
18 ignated by the Secretary;

19 “(5) ‘disadvantaged’ has the same meaning as
20 that term has in section 8(a) (5) and (6) of the
21 Small Business Act (15 U.S.C. 637(a) (5) and (6));

22 “(6) ‘dual-use technology’ means a technology
23 that has military and commercial applications;

24 “(7) ‘educational institution’ means a college,
25 university, or elementary or secondary school, in-

1 including any not-for-profit organization dedicated to
2 education that would be exempt under section
3 501(a) of the Internal Revenue Code of 1986;

4 “(8) ‘minority college or university’ means a
5 historically Black college or university that would be
6 considered a ‘part B institution’ by section 322(2) of
7 the Higher Education Act of 1965 (20 U.S.C.
8 1061(2)) or a ‘minority institution’ as that term is
9 defined in section 1046 of the Higher Education Act
10 of 1965 (20 U.S.C. 1135d–5(3)).

11 “(9) ‘multi-program departmental laboratory’
12 means any of the following: Argonne National Lab-
13 oratory, Brookhaven National Laboratory, Idaho
14 Nation Engineering Laboratory, Lawrence Berkeley
15 Laboratory, Lawrence Livermore National Labora-
16 tory, Los Alamos National Laboratory, National Re-
17 newable Energy Laboratory, Oak Ridge National
18 Laboratory, Pacific Northwest Laboratory, and
19 Sandia National Laboratories;

20 “(10) ‘partnership’ means any arrangement
21 under which the Secretary or one or more depart-
22 mental laboratories undertakes research, develop-
23 ment, demonstration, commercial application or
24 technical assistance activities in cooperation with one

1 or more non-Federal partners and which may in-
2 clude partners from other Federal agencies;

3 “(11) ‘Report of the National Critical Tech-
4 nologies Panel’ means the biennial report on na-
5 tional critical technologies submitted to Congress by
6 the President pursuant to section 603(d) of the Na-
7 tional Science and Technology Policy, Organization,
8 and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

9 “(12) ‘small business’ means a business concern
10 that meets the applicable standards prescribed pur-
11 suant to section 3(a) of the Small Business Act (15
12 U.S.C. 632(a)).

13 **“SEC. 1102. GENERAL AUTHORITY.**

14 “(a)(1) In carrying out the missions of the Depart-
15 ment, the Secretary and the departmental laboratories
16 may conduct research, development, demonstration or
17 commercial application activities that build on the core
18 competencies of the departmental laboratories.

19 “(2) In addition to missions established pursuant to
20 other laws, the Secretary may assign to departmental lab-
21 oratories any of the following missions:

22 “(A) National security, including the—

23 “(i) advancement of the military applica-
24 tion of atomic energy;

1 “(ii) support of the production of atomic
2 weapons, or atomic weapons parts, including
3 special nuclear materials;

4 “(iii) support of naval nuclear propulsion
5 programs;

6 “(iv) support for the dismantlement of
7 atomic weapons and the safe storage, transpor-
8 tation and disposal of special nuclear materials;

9 “(v) development of technologies and tech-
10 niques for the safe storage, processing, treat-
11 ment, transportation, and disposal of hazardous
12 waste (including radioactive waste) resulting
13 from nuclear materials production, weapons
14 production and surveillance programs, and
15 naval nuclear propulsion programs and of tech-
16 nologies and techniques for the reduction of en-
17 vironmental hazards and contamination due to
18 such waste and the environmental restoration of
19 sites affected by such waste;

20 “(vi) development of technologies and tech-
21 niques needed for the effective negotiation and
22 verification of international arms control agree-
23 ments and for the containment of the prolifera-
24 tion of nuclear, chemical, and biological weap-
25 ons and delivery vehicles of such weapons; and

1 “(vii) protection of health and promotion
2 of safety in carrying out other national security
3 missions.

4 “(B) Energy-related science and technology, in-
5 cluding the—

6 “(i) enhancement of the nation’s under-
7 standing of all forms of energy production and
8 use;

9 “(ii) support of basic and applied research
10 on the fundamental nature of matter and en-
11 ergy, including construction and operation of
12 unique scientific instruments;

13 “(iii) development of energy resources, in-
14 cluding solar, geothermal, fossil, and nuclear
15 energy resources, and related fuel cycles;

16 “(iv) pursuit of a comprehensive program
17 of research and development on the environ-
18 mental effects of energy technologies and pro-
19 grams;

20 “(v) development of technologies and proc-
21 esses to reduce the generation of waste or pollu-
22 tion or the consumption of energy or materials;

23 “(vi) development of technologies and tech-
24 niques for the safe storage, processing, treat-
25 ment, management, transportation and disposal

1 of nuclear waste resulting from commercial nu-
2 clear activities; and

3 “(vii) improvement of the quality of edu-
4 cation in science, mathematics, and engineering.

5 “(C) Technology transfer.

6 “(3)(A) In addition to the missions identified in sub-
7 section (a)(2), the Departmental laboratories may pursue
8 supporting missions to the extent that these supporting
9 missions—

10 “(i) support the technology policies of the Presi-
11 dent;

12 “(ii) are developed in consultation with and co-
13 ordinated with any other Federal agency or agencies
14 that carry out such mission activities;

15 “(iii) are built upon the competencies developed
16 in carrying out the primary missions identified in
17 subsection (a)(2) and do not interfere with the pur-
18 suit of the missions identified in subsection (a)(2);
19 and

20 “(iv) are carried out through a process that so-
21 licits the views of United States industry and other
22 appropriate parties.

23 “(B) These supporting missions shall include activi-
24 ties in the following areas:

1 “(i) developing and operating high-performance
2 computing and communications systems, with the
3 goals of contributing to a national information infra-
4 structure and addressing complex scientific and in-
5 dustrial challenges which require large-scale com-
6 putational capabilities;

7 “(ii) conducting research on and development of
8 advanced manufacturing systems and technologies,
9 with the goal of assisting the private sector in im-
10 proving the productivity, quality, energy efficiency,
11 and control of manufacturing processes;

12 “(iii) conducting research on and development
13 of advanced materials, with the goals of increasing
14 energy efficiency, environmental protection, and im-
15 proved industrial performance.

16 “(4) In carrying out the Department’s missions, the
17 Secretary, and the directors of the departmental labora-
18 tories, shall, to the maximum extent practicable, make use
19 of partnerships. Such partnerships shall be for purposes
20 of the following:

21 “(A) to lead to the development of technologies
22 that the private sector can commercialize in areas of
23 technology with broad application important to Unit-
24 ed States technological and economic competitive-
25 ness;

1 “(B) to provide Federal support in areas of
2 technology where the cost or risk is too high for the
3 private sector to support alone but that offer a po-
4 tentially high payoff to the United States;

5 “(C) to contribute to the education and training
6 of scientists and engineers;

7 “(D) to provide university and private research-
8 ers access to departmental laboratory facilities; or

9 “(E) to provide technical expertise to univer-
10 sities, industry or other Federal agencies.

11 “(b) The Secretary, in carrying out partnerships,
12 may enter into agreements using instruments authorized
13 under applicable laws, including but not limited to con-
14 tracts, cooperative research and development agreements,
15 work for other agreements, user-facility agreements, coop-
16 erative agreements, grants, personnel exchange agree-
17 ments and patent and software licenses with any person,
18 any agency or instrumentality of the United States, any
19 State or local governmental entity, any educational institu-
20 tion, and any other entity, private sector or otherwise.

21 “(c) The Secretary, and the directors of the depart-
22 mental laboratories, shall utilize partnerships with United
23 States industry, to the maximum extent practicable, to en-
24 sure that technologies developed in pursuit of the Depart-

1 ment's missions are applied and commercialized in a
2 timely manner.

3 “(d) The Secretary shall work with other Federal
4 agencies to carry out research, development, demonstra-
5 tion or commercial application activities where the core
6 competencies of the departmental laboratories could con-
7 tribute to the missions of such other agencies.

8 **“SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS**
9 **BETWEEN DEPARTMENTAL LABORATORIES**
10 **AND UNITED STATES INDUSTRY.**

11 “(a) Beginning in fiscal year 1994, the Secretary
12 shall establish a goal to allocate to cost-shared partner-
13 ships with United States industry not less than 20 percent
14 of the annual funds provided by the Secretary to each
15 multi-program departmental laboratory for research, de-
16 velopment, demonstration and commercial application
17 activities.

18 “(b) Beginning in fiscal year 1994, the Secretary
19 shall establish an appropriate goal for the amount of re-
20 sources to be committed to cost-shared partnerships with
21 United States industry at other departmental laboratories.

1 **“SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOP-**
2 **MENT OF CRITICAL TECHNOLOGY STRATE-**
3 **GIES.**

4 “(a) The Secretary shall develop a multiyear critical
5 technology strategy for research, development, demonstra-
6 tion and commercial application activities supported by
7 the Department for the critical technologies listed in the
8 Report of the National Critical Technologies Panel.

9 “(b) In developing such strategy, the Secretary
10 shall—

11 “(1) identify the core competencies of each de-
12 partmental laboratory;

13 “(2) develop goals and objectives for the appro-
14 priate role of the Department in each of the critical
15 technologies listed in the report, taking into consid-
16 eration the core competencies of the departmental
17 laboratories;

18 “(3) consult with appropriate representatives of
19 United States industry, including members of indus-
20 try associations and representatives of labor organi-
21 zations; and

22 “(4) participate in the executive branch process
23 to develop critical technology strategies.

1 **“SEC. 1105. PARTNERSHIP PREFERENCES.**

2 “(a) The Secretary shall ensure that the principal
3 economic benefits of any partnership accrue to the United
4 States economy.

5 “(b) Any partnership that would be given preference
6 under section 12(c)(4) of the Stevenson-Wydler Tech-
7 nology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4) if
8 it were a cooperative research and development agreement
9 shall be given preference under this title.

10 “(c) The Secretary shall issue guidelines, after con-
11 sultation with the Laboratory Partnership Advisory Board
12 established in section 1109, for application of section
13 12(c)(4) of the Stevenson-Wydler Technology Innovation
14 Act of 1980 (15 U.S.C. 3710a(c)(4)) and application of
15 subsection (a) of this section to partnerships.

16 “(d) The Secretary shall encourage partnerships that
17 involve minority colleges or universities or private sector
18 entities owned or controlled by disadvantaged individuals.

19 **“SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.**

20 “(a) The Secretary, in consultation with the Labora-
21 tory Partnership Advisory Board established in section
22 1109, shall develop mechanisms for independent evalua-
23 tion of the ongoing partnership activities of the Depart-
24 ment and the departmental laboratories.

1 “(b)(1) The Secretary and the director of each de-
2 partmental laboratory shall develop mechanisms for as-
3 sessing the progress of each partnership.

4 “(2) The Secretary and the director of each depart-
5 mental laboratory shall utilize the mechanisms developed
6 under paragraph (1) to evaluate the accomplishments of
7 each ongoing multiyear partnership and shall condition
8 continued Federal participation in each partnership on
9 demonstrated progress.

10 **“SEC. 1107. ANNUAL REPORT.**

11 “(a) The Secretary shall submit an annual report to
12 Congress describing the ongoing partnership activities of
13 the Secretary and each departmental laboratory and, to
14 the extent practicable, the activities planned by the Sec-
15 retary and by each departmental laboratory for the coming
16 fiscal year. In developing the report, the Secretary shall
17 seek the advice of the Laboratory Partnership Advisory
18 Board established in section 1109.

19 “(b) The Secretary shall submit the report under sub-
20 section (a) to the Committees on Appropriations and En-
21 ergy and Natural Resources of the Senate and to the ap-
22 propriate Committees of the House of Representatives. No
23 later than March 1, 1994, and no later than the first of
24 March of each subsequent year, the Secretary shall submit

1 the report under subsection (a) that covers the fiscal year
2 beginning on the first of October of such year.

3 “(c) Each director of a departmental laboratory shall
4 provide annually to the Secretary a report on ongoing
5 partnership activities and a plan and such other informa-
6 tion as the Secretary may reasonably require describing
7 the partnership activities the director plans to carry out
8 in the coming fiscal year. The director shall provide such
9 report and plan in a timely manner as prescribed by the
10 Secretary to permit preparation of the report under sub-
11 section (a).

12 “(d) The Secretary’s description of planned activities
13 under subsection (a) shall include, to the extent such in-
14 formation is available, appropriate information on—

15 “(1) the total funds to be allocated to partner-
16 ship activities by the Secretary and by the director
17 of each departmental laboratory;

18 “(2) a breakdown of funds to be allocated by
19 the Secretary and by the director of each depart-
20 mental laboratory for partnership activities by areas
21 of technology;

22 “(3) any plans for additional funds not de-
23 scribed in paragraph (2) to be set aside for partner-
24 ships during the coming fiscal year;

1 “(4) any partnership that involves a federal
2 contribution in excess of \$500,000 the Secretary or
3 the director of each departmental laboratory expects
4 to enter into in the coming fiscal year;

5 “(5) the technologies that will be advanced by
6 each partnership that involves a Federal contribu-
7 tion in excess of \$500,000;

8 “(6) the types of entities that will be eligible for
9 participation in partnerships;

10 “(7) the nature of the partnership arrange-
11 ments, including the anticipated level of financial
12 and in-kind contribution from participants and any
13 repayment terms;

14 “(8) the extent of use of competitive procedures
15 in selecting partnerships; and

16 “(9) such other information that the Secretary
17 finds relevant to the determination of the appro-
18 priate level of Federal support for such partnerships.

19 “(e) The Secretary shall provide appropriate notice
20 in advance to Congress of any partnership, which has not
21 been described previously in the report required by sub-
22 section (a), that involves a Federal contribution in excess
23 of \$500,000.

1 **“SEC. 1108. PARTNERSHIP PAYMENTS.**

2 “(a)(1) Partnership agreements entered into by the
3 Secretary may require a person or other entity to make
4 payments to the Department, or any other Federal agen-
5 cy, as a condition for receiving support under the agree-
6 ment.

7 “(2) The amount of any payment received by the
8 Federal Government pursuant to a requirement imposed
9 under paragraph (1) may be credited, to the extent au-
10 thorized by the Secretary, to the account established under
11 paragraph (3). Amounts so credited shall be available,
12 subject to appropriations, for partnerships.

13 “(3) There is hereby established in the United States
14 Treasury an account to be known as the ‘Department of
15 Energy Partnership Fund’. Funds in such account shall
16 be available to the Secretary for the support of partner-
17 ships.

18 “(b) The Secretary may advance funds under any
19 partnership without regard to section 3324 of title 31 of
20 the United States Code to—

21 “(1) small businesses;

22 “(2) not-for-profit organizations that would be
23 exempt under section 501(a) of the Internal Revenue
24 Code of 1986; or

25 “(3) State or local governmental entities.

1 **“SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD**
2 **AND INDUSTRIAL ADVISORY GROUPS AT**
3 **MULTI-PROGRAM DEPARTMENTAL LABORA-**
4 **TORIES.**

5 “(a)(1) The Secretary shall establish within the De-
6 partment an advisory board to be known as the “Labora-
7 tory Partnership Advisory Board”, to provide the Sec-
8 retary with advice on the implementation of this title.

9 “(2) The membership of the Laboratory Partnership
10 Advisory Board shall consist of persons who are qualified
11 to provide the Secretary with advice on the implementa-
12 tion of this title. Members of the Board shall include rep-
13 resentatives primarily from United States industry but
14 shall also include representatives from—

15 “(A) small businesses;

16 “(B) private sector entities owned or controlled
17 by disadvantaged persons;

18 “(C) educational institutions, including rep-
19 resentatives from minority colleges or universities;

20 “(D) laboratories of other Federal agencies;
21 and

22 “(E) professional and technical societies in the
23 United States.

24 “(3) The Laboratory Partnership Advisory Board
25 shall request comment and suggestions from departmental

1 laboratories to assist the Board in providing advice to the
2 Secretary on the implementation of this title.

3 “(b) The director of each multiprogram departmental
4 laboratory shall establish an advisory group consisting of
5 persons from United States industry to—

6 “(1) evaluate new initiatives proposed by the
7 departmental laboratory;

8 “(2) identify opportunities for partnerships with
9 United States industry; and

10 “(3) evaluate ongoing programs at the depart-
11 mental laboratory from the perspective of United
12 States industry.

13 “(c) Nothing in this section is intended to preclude
14 the Secretary or the director of a departmental laboratory
15 from utilizing existing advisory boards to achieve the pur-
16 poses of this section.

17 **“SEC. 1110. FELLOWSHIP PROGRAM.**

18 “The Secretary shall encourage scientists, engineers
19 and technical staff from departmental laboratories to serve
20 as visiting fellows in research and manufacturing facilities
21 of industrial organizations, State and local governments,
22 and educational institutions in the United States and for-
23 eign countries. The Secretary may establish a formal fel-
24 lowship program for this purpose or may authorize such
25 activities on a case-by-case basis. The Secretary shall also

1 encourage scientists and engineers from United States in-
2 dustry to serve as visiting scientists and engineers in the
3 departmental laboratories.

4 **“SEC. 1111. COOPERATION WITH STATE AND LOCAL PRO-**
5 **GRAMS FOR TECHNOLOGY DEVELOPMENT**
6 **AND DISSEMINATION.**

7 “The Secretary and the director of each departmental
8 laboratory shall seek opportunities to coordinate their ac-
9 tivities with programs of State and local governments for
10 technology development and dissemination, including pro-
11 grams funded in part by the Secretary of Defense pursu-
12 ant to section 2523 of title 10, of the United States Code,
13 and section 2513 of title 10, of the United States Code,
14 and programs funded in part by the Secretary of Com-
15 merce pursuant to sections 25 and 26 of the Act of March
16 3, 1901 (15 U.S.C. 278k and 278l), and section 5121(b)
17 of the Omnibus Trade and Competitiveness Act of 1988
18 (15 U.S.C. 278l note).

19 **“SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.**

20 “(a) All of the funds authorized to be appropriated
21 to the Secretary for research, development, demonstration
22 or commercial application activities, other than atomic en-
23 ergy defense programs, shall be available for partnerships
24 to the extent such partnerships are consistent with the
25 goals and objectives of such activities.

1 “(b) All of the funds authorized to be appropriated
2 to the Secretary for research, development, demonstration
3 or commercial application of dual-use technologies within
4 the Department’s atomic energy defense activities shall be
5 available for partnerships to the extent such partnerships
6 are consistent with the goals and objectives of such activi-
7 ties.

8 “(c) Funds authorized to be appropriated to the Sec-
9 retary and made available for departmental laboratory-di-
10 rected research and development shall be available for any
11 partnership.

12 **“SEC. 1113. PROTECTION OF INFORMATION.**

13 “Section 12(c)(7) of the Stevenson-Wydler Tech-
14 nology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)),
15 relating to the protection of information, shall apply to
16 the partnership activities undertaken by the Secretary and
17 by the directors of the departmental laboratories.

18 **“SEC. 1114. FAIRNESS OF OPPORTUNITY.**

19 “(a) The Secretary and the director of each depart-
20 mental laboratory shall institute procedures to ensure that
21 information on laboratory capabilities and arrangements
22 for participating in partnerships with the Secretary or the
23 departmental laboratories is publicly disseminated.

24 “(b) Prior to entering into any partnership having a
25 Federal contribution in excess of \$5,000,000, the Sec-

1 retary or director of a departmental laboratory shall en-
2 sure that the opportunity to participate in such partner-
3 ship has been publicly announced to potential participants.

4 “(c) In cases where the Secretary or the director of
5 a departmental laboratory believes a potential partnership
6 activity would benefit from broad participation from the
7 private sector, the Secretary or the director of such de-
8 partmental laboratory may take such steps as may be nec-
9 essary to facilitate formation of a United States industry
10 consortium to pursue the partnership activity.

11 **“SEC. 1115. PRODUCT LIABILITY.**

12 “The Secretary, after consultation with the Labora-
13 tory Partnership Advisory Board established in section
14 1109, and the Attorney General shall enter into a memo-
15 randum of understanding establishing a consistent policy
16 and standards regarding the liability of the United States,
17 of the non-Federal entity operating a departmental labora-
18 tory and of any other party to a partnership for product
19 liability claims arising from partnership activities. The
20 Secretary and the director of each departmental labora-
21 tory shall, to the maximum extent practicable, incorporate
22 into any partnership the policy and standards established
23 in the memorandum of understanding.

1 **“SEC. 1116. INTELLECTUAL PROPERTY.**

2 “The Secretary shall, after consultation with the
3 Laboratory Partnership Advisory Board established in
4 section 1109, develop guidelines governing the application
5 of intellectual property laws by the Secretary and by the
6 director of each departmental laboratory in partnership
7 arrangements.

8 **“SEC. 1117. SMALL BUSINESS.**

9 “(a) The Secretary shall develop simplified proce-
10 dures and guidelines for partnerships involving small busi-
11 nesses to facilitate access to the resources and capabilities
12 of the departmental laboratories.

13 “(b) Notwithstanding any other law, the Secretary
14 may waive, in whole or in part, any cost-sharing require-
15 ment for a small business involved in a partnership if the
16 Secretary determines that the cost-sharing requirement
17 would impose an undue hardship on the small business
18 and would prevent the formation of the partnership.

19 “(c) Notwithstanding section 12(d) of the Stevenson-
20 Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)),
21 the Secretary may provide funds as part of a cooperative
22 research and development agreement to a small business
23 if the Secretary determines that the funds are necessary
24 to prevent imposing an undue hardship on the small busi-
25 ness and necessary for the formation of the cooperative
26 research and development agreement.

1 **“SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.**

2 “Within one year after the date of enactment of this
3 title, and annually thereafter, the Secretary shall submit
4 to the Committee on Energy and Natural Resources of
5 the United States Senate and to the United States House
6 of Representatives a report identifying opportunities for
7 minority colleges and universities to participate in pro-
8 grams and activities being carried out by the Department
9 or the departmental laboratories. The Secretary shall con-
10 sult with representatives of minority colleges and univer-
11 sities in preparing the report. Such report shall—

12 “(a) describe ongoing education and training
13 programs being carried out by the Department or
14 the departmental laboratories with respect to or in
15 conjunction with minority colleges and universities in
16 the areas of mathematics, science, and engineering;

17 “(b) describe ongoing research, development
18 demonstration or commercial application activities
19 involving the Department or the departmental lab-
20 oratories and minority colleges and universities;

21 “(c) describe funding levels for the programs
22 and activities described in subsections (a) and (b);

23 “(d) identify ways for the Department or the
24 departmental laboratories to assist minority colleges
25 and universities in providing education and training

1 in the fields of mathematics, science, and engineer-
2 ing;

3 “(e) identify ways for the Department or the
4 departmental laboratories to assist minority colleges
5 and universities in entering into partnerships;

6 “(f) address the need for and potential role of
7 the Department or the departmental laboratories in
8 providing to minority colleges and universities the
9 following:

10 “(1) increased research opportunities for
11 faculty and students;

12 “(2) assistance in faculty development and
13 recruitment and curriculum enhancement and
14 development; and

15 “(3) laboratory instrumentation and equip-
16 ment, including computer equipment, through
17 purchase, loan, or other transfer;

18 “(g) address the need for and potential role of
19 the Department or departmental laboratories in pro-
20 viding funding and technical assistance for the devel-
21 opment of infrastructure facilities, including build-
22 ings and laboratory facilities at minority colleges
23 and universities; and

24 “(h) make specific proposals and recommenda-
25 tions, together with estimates of necessary funding

1 levels, for initiatives to be carried out by the Depart-
2 ment or the departmental laboratories to assist mi-
3 nority colleges and universities in providing edu-
4 cation and training in the areas of mathematics,
5 science, and engineering, and in entering into part-
6 nerships with the Department or departmental lab-
7 oratories.

8 **“SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOL-**
9 **ARSHIP PROGRAM.**

10 “The Secretary shall establish a scholarship program
11 for students attending minority colleges or universities
12 and pursuing a degree in energy-related scientific, mathe-
13 matical, engineering, and technical disciplines. The pro-
14 gram shall include tuition assistance. The program shall
15 provide an opportunity for the scholarship recipient to
16 participate in an applied work experience in a depart-
17 mental laboratory. Recipients of such scholarships shall be
18 students deemed by the Secretary to have demonstrated
19 (1) a need for such assistance and (2) academic potential
20 in the particular area of study. Scholarships awarded
21 under this program shall be known as Secretary of Energy
22 Scholarships.”.

23 (b) CONFORMING AMENDMENT—The table of con-
24 tents of the Department of Energy Organization Act (42

1 U.S.C. 7101 et seq.) is amended by adding at the end
 2 thereof the following items:

“TITLE XI—TECHNOLOGY PARTNERSHIPS

- “Sec. 1101. Finding, Purposes and Definitions.
- “Sec. 1102. General Authority.
- “Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
- “Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
- “Sec. 1105. Partnership Preferences.
- “Sec. 1106. Evaluation of Partnership Programs.
- “Sec. 1107. Annual Report.
- “Sec. 1108. Partnership Payments.
- “Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
- “Sec. 1110. Fellowship Program.
- “Sec. 1111. Cooperation with State and Local Programs for Technology Development and Dissemination.
- “Sec. 1112. Availability of Funds for Partnerships.
- “Sec. 1113. Protection of Information.
- “Sec. 1114. Fairness of Opportunity.
- “Sec. 1115. Product Liability.
- “Sec. 1116. Intellectual Property.
- “Sec. 1117. Small Business.
- “Sec. 1118. Minority College and University Report.
- “Sec. 1119. Minority College and University Scholarship program.”.

3 **SEC. 4. NATIONAL ADVANCED MANUFACTURING TECH-**
 4 **NOLOGIES PROGRAM.**

5 The Secretary is encouraged to use partnerships to
 6 expedite the private sector deployment of advanced manu-
 7 facturing technologies as required by section 2202(a) of
 8 the Energy Policy Act of 1992 (42 U.S.C. 13502).

9 **SEC. 5. NOT-FOR-PROFIT ORGANIZATIONS.**

10 The Secretary shall encourage the establishment of
 11 not-for-profit organizations, such as the Center for Ap-
 12 plied Development of Environmental Technology
 13 (CADET), that will facilitate the transfer of technologies
 14 from the departmental laboratories to the private sector.

1 **SEC. 6. CAREER PATH PROGRAM.**

2 (a) The Secretary, utilizing authority under other ap-
3 plicable law and the authority of this section, shall estab-
4 lish a career path program to recruit employees of the na-
5 tional laboratories to serve in positions in the Department.

6 (b) Section 207 of title 18, United States Code, is
7 amended by inserting after subsection (j)(6) the following:

8 “(7) NATIONAL LABORATORIES.—(A) The re-
9 strictions contained in subsections (a), (b), (c), and
10 (d) shall not apply to an appearance or communica-
11 tion made, or advice or aid rendered by a person em-
12 ployed at a facility described in subparagraph (B),
13 if the appearance or communication is made on be-
14 half of the facility or the advice or aid is provided
15 to the contractor of the facility.

16 “(B) This paragraph applies to the following:
17 Argonne National Laboratory, Brookhaven National
18 Laboratory, Idaho National Engineering Laboratory,
19 Lawrence Berkeley Laboratory, Lawrence Livermore
20 National Laboratory, Los Alamos National Labora-
21 tory, National Renewable Energy Laboratory, Oak
22 Ridge National Laboratory, Pacific Northwest Lab-
23 oratory, and Sandia National Laboratories.”.

24 (c) Section 27 of the Office of Federal Procurement
25 Policy Act (41 U.S.C. section 423) is amended by insert-
26 ing the following new subsection:

1 “(q) NATIONAL LABORATORIES.—(1) The restric-
2 tions on obtaining a recusal contained in paragraphs
3 (c)(2) and (c)(3) shall not apply to discussions of future
4 employment or business opportunity between a procure-
5 ment official and a competing contractor managing and
6 operating a facility described in paragraph (3): *Provided*,
7 That such discussions concern the employment of the pro-
8 curement official at such facility.

9 “(2) The restrictions contained in paragraph (f)(1)
10 shall not apply to activities performed on behalf of a facil-
11 ity described in paragraph (3).

12 “(3) This subsection applies to the following: Ar-
13 gonne National Laboratory, Brookhaven National Labora-
14 tory, Idaho National Engineering Laboratory, Lawrence
15 Berkeley Laboratory, Lawrence Livermore National Lab-
16 oratory, Los Alamos National Laboratory, National Re-
17 newable Energy Laboratory, Oak Ridge National Labora-
18 tory, Pacific Northwest Laboratory, and Sandia National
19 Laboratories.”.

20 **SEC. 7. STANDARDIZATION OF REQUIREMENTS AFFECTING**
21 **DEPARTMENT OF ENERGY EMPLOYEES.**

22 (a) Part A of title VI of the Department of Energy
23 Organization Act (42 U.S.C. 7211 through 7218) is re-
24 pealed.

1 (b) The table of contents for the Department of En-
2 ergy Organization Act is amended by striking out the mat-
3 ter relating to part A of title VI.

4 **SEC. 8. DOE MANAGEMENT.**

5 (a) Section 202(a) of the Department of Energy Or-
6 ganization Act (42 U.S.C. 7132(a)) is amended by strik-
7 ing “Under Secretary” and inserting in its place “Under
8 Secretaries”.

9 (b) Section 202(b) of the Department of Energy Or-
10 ganization Act (42 U.S.C. 7132(b)) is amended to read
11 as follows:

12 “(b) There shall be in the Department three Under
13 Secretaries and a General Counsel, who shall be appointed
14 by the President, by and with the advice and consent of
15 the Senate, and who shall perform functions and duties
16 the Secretary prescribes. The Under Secretaries shall be
17 compensated at the rate for level III of the Executive
18 Schedule under section 5314 of title 5, United States
19 Code, and the General Counsel shall be compensated at
20 the rate provided for level IV of the Executive Schedule
21 under section 5315 of title 5, United States Code.”.

22 **SEC. 9. AMENDMENTS TO STEVENSON-WYDLER TECH-**
23 **NOLOGY INNOVATION ACT.**

24 (a) Section 12(a) of the Stevenson-Wydler Tech-
25 nology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is

1 amended by striking “, to the extent provided in any agen-
2 cy-approved joint work statement,”.

3 (b) Section 12(b) of the Stevenson-Wydler Tech-
4 nology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is
5 amended by striking “, to the extent provided in any agen-
6 cy-approved joint work statement,”.

7 (c) Section 12(c)(5) of the Stevenson-Wydler Tech-
8 nology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5))
9 is amended—

10 (1) by amending subparagraph (C)(i) to read as
11 follows:

12 “(C)(i) Any agency that has contracted with a non-
13 Federal entity to operate a laboratory shall review and ap-
14 prove, request specific modifications to, or disapprove a
15 cooperative research and development agreement that is
16 submitted by the director of such laboratory within thirty
17 days after such submission. If an agency has requested
18 specific modifications to a cooperative research and devel-
19 opment agreement, the agency shall approve or disapprove
20 any resubmission of such cooperative research and devel-
21 opment agreement within fifteen days after such resubmis-
22 sion. Except as provided in subparagraph (D), no agree-
23 ment may be entered into by a Government-owned, con-
24 tractor-operated laboratory under this section before ap-

1 proval of the cooperative research and development agree-
2 ment.”;

3 (2) by amending subparagraph (C)(ii) to read
4 as follows:

5 “(ii) If an agency that has contracted with a non-
6 Federal entity to operate a laboratory disapproves or re-
7 quests the modification of a cooperative research and de-
8 velopment agreement submitted under clause (i), the agen-
9 cy shall promptly transmit a written explanation of such
10 disapproval or modification to the director of the labora-
11 tory concerned.”;

12 (3) by amending subparagraph (C)(iii) to read
13 as follows:

14 “(iii) Any agency that has contracted with a non-Fed-
15 eral entity to operate a laboratory shall develop and pro-
16 vide to such laboratory a model cooperative research and
17 development agreement, and guidelines for using such an
18 agreement, for the purposes of standardizing practices and
19 procedures, resolving common legal issues, and enabling
20 negotiation and review of a cooperative research and devel-
21 opment agreement to be carried out in a routine and
22 prompt manner.”;

23 (4) by striking subparagraph (C)(iv);

24 (5) by amending subparagraph (C)(v) to read
25 as follows:

1 “(iv) If an agency fails to complete a review under
2 clause (i) within any of the specified time-periods, the
3 agency shall submit to the Congress, within 10 days after
4 the failure to complete the review, a report on the reasons
5 for such failure. The agency shall, at the end of each suc-
6 cessive 15-day period thereafter during which such failure
7 continues, submit to Congress another report on the rea-
8 sons for the continued failure.”;

9 (6) by striking subparagraph (C)(vi); and

10 (7) by amending subparagraph (D) to read as
11 follows:

12 “(D)(i) Any agency that has contracted with a non-
13 Federal entity to operate a laboratory may permit the di-
14 rector of a laboratory to enter into a cooperative research
15 and development agreement without the submission, re-
16 view, and approval of the agreement under subparagraph
17 (C)(i) if: the Federal share under the agreement does not
18 exceed \$500,000 per year, or any amount the head of the
19 agency may prescribe; the text of the cooperative research
20 and development agreement is consistent with a model
21 agreement under subparagraph (C)(iii); the agreement is
22 entered into in accord with the agency’s guidelines under
23 subparagraph (C)(iii); and the agreement is consistent
24 with and furthers an assigned laboratory mission.

1 “(ii) The director of a laboratory shall notify the head
 2 of the agency of the purpose and scope of an agreement
 3 entered into under this subparagraph. The agency shall
 4 include in its annual report required by section 11(f) of
 5 this Act (15 U.S.C. 3710(f)) an assessment of the imple-
 6 mentation of this subparagraph including a summary of
 7 agreements entered into by laboratory directors under this
 8 subparagraph.”.

9 (d) Section 12(d) of the Stevenson-Wydler Tech-
 10 nology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is
 11 amended—

12 (1) in paragraph (1) by inserting “and” after
 13 the second semicolon;

14 (2) in paragraph (2)—

15 (A) by striking “substantial” before “pur-
 16 pose” in subparagraph (B);

17 (B) by striking “the primary purpose” and
 18 inserting “one of the purposes” in subpara-
 19 graph (C); and

20 (C) by striking “; and” the second time it
 21 appears and inserting a period; and

22 (3) by striking paragraph (3).

23 **SEC. 10. GUIDELINES.**

24 The implementation of the provisions of this Act shall
 25 not be delayed pending the issuance of guidelines, policies

1 or standards required by sections 1105, 1115 and 1116
2 of the Department of Energy Organization Act (42 U.S.C.
3 7101 et seq.) as added by section 3 of this Act.

4 **SEC. 11. AUTHORIZATION.**

5 (a) In addition to funds made available for partner-
6 ships under section 1112 of the Department of Energy
7 Organization Act (42 U.S.C. 7101 et seq.) as added by
8 section 3 of this Act, there is authorized to be appro-
9 priated from funds otherwise available to the Secretary—

10 (1) for partnership activities with industry in
11 areas other than atomic energy defense activities
12 \$100,000,000 for fiscal year 1994, \$140,000,000 for
13 fiscal year 1995, \$180,000,000 for fiscal year 1996
14 and \$220,000,000 for fiscal year 1997; and

15 (2) for partnership activities with industry in-
16 volving dual-use technologies within the Depart-
17 ment's atomic energy defense activities
18 \$240,000,000 for fiscal year 1994, \$290,000,000 for
19 fiscal year 1995, \$350,000,000 for fiscal year 1996
20 and \$400,000,000 for fiscal year 1997.

21 (b) There is authorized to be appropriated to the Sec-
22 retary for the Minority College and University Scholarship
23 Program established in section 1119 of the Department
24 of Energy Organization Act (42 U.S.C. 7101 et seq.) as
25 added by section 3 of this Act \$1,000,000 for fiscal year

1 1994, \$2,000,000 for fiscal year 1995 and \$3,000,000 for
2 fiscal year 1996.

3 (c) There is authorized to be appropriated to the Sec-
4 retary for research or educational programs, carried out
5 through partnerships or otherwise, and for related facili-
6 ties and equipment that involve minority colleges or uni-
7 versities such sums as may be necessary.

Passed the Senate November 20 (legislative day, No-
vember 2), 1993.

Attest:

Secretary.

S 473 PP—2

S 473 PP—3